

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JOE DASILVA, JR.,	)	Civil No. 20-11358
	)	Hon. Mark A. Goldsmith
Plaintiff,	)	
v.	)	
	)	
CHRISTINE WORMUTH,	)	
Secretary of the Army, and	)	
MARTIN POTTER, in his	)	
individual capacity	)	
	)	
Defendant.	)	
_____	)	

DEPOSITION OF JOE DASILVA, JR.

DATE: Wednesday, September 7, 2022

TIME: 10:00 a.m. to 4:27 p.m.

FACILITATED BY: Free State Court Reporting

PURSUANT TO: Notice by counsel for the Defendant for  
purposes of discovery, use at trial, or  
such other purposes as permitted under  
the Federal Rules of Civil Procedure  
and Federal Rules of Evidence

REPORTED BY: JEREMY TIEKING

1 Q. Did you review any recordings or video footage or  
2 audio recordings in preparation for your deposition  
3 today?

4 A. No.

5 Q. Are there any audio or video recordings that  
6 pertain to your lawsuit?

7 A. Yes, I think so.

8 Q. Okay. What are those?

9 A. The one with the director, that's it.

10 Q. And when you refer to the director, who is that?

11 A. Our boss, our big director in charge of the fire  
12 chiefs and --

13 Q. What's his name?

14 A. Director Art Young, Arthur J. Young.

15 Q. And is that the video that you've produced in  
16 this case?

17 A. Video? No, it's not a video.

18 Q. Or aud -- an audio recording?

19 A. Yes, sir.

20 Q. That you produced?

21 A. Yes, sir.

22 Q. Okay. Are there any pictures or photographs that  
23 pertain to the lawsuit?

24 A. Not that I'm aware of.

25 Q. Other than your attorney, did you discuss your  
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1 remember. I'd have to look over it. I have started  
2 making some notes of how I was being treated and how  
3 other people on shift that worked under Chief Potter's  
4 supervision were treating me differently too. So, I  
5 don't have it with me.

6 Q. Have you given it to your attorney?

7 A. I have not. I don't even -- if I can even find  
8 it, but I have taken notes. I don't even know what I did  
9 with them personally. I have taken notes for sure, I  
10 just don't know what I did with him.

11 Q. Okay. Can you please give those to your  
12 attorney?

13 A. Yeah, if I can find them. Like I said, I don't  
14 know where they're at or locate them, but I'll do my best  
15 to try to find them.

16 Q. Okay. We'll hold open the deposition pending  
17 receipt of those notes which would certainly be covered  
18 under the discovery request that we prepended.

19 A. Uh-huh.

20 MR. ALTMAN: If he can locate them.

21 THE WITNESS: Yeah.

22 BY MR. ANCHILL:

23 Q. Let's talk about the civilian positions you've  
24 had with the Army. When did you start working for the  
25 Army as a civilian employee?

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1 A. I don't -- I'm not good with -- I don't remember  
2 the exact month, but it was 2000, I think.

3 Q. Okay.

4 A. I don't remember.

5 Q. What was your position when you first started?

6 A. Emergency Medical Technician.

7 Q. How long did you serve in that position?

8 A. Oh boy. I wish I'd have brought my resume. It  
9 was a couple years then I went into the term firefighter  
10 position. That's all I remember. Like I said, if I had  
11 my resume, I don't exactly remember exact dates. I know  
12 I started in 2000 as a term EMT, then I went to term  
13 firefighter, then I went to --

14 Q. Do you remember approximately when you went to  
15 term firefighter?

16 A. I don't know, maybe a year and a half or two  
17 years as an EMT. Like I said, I don't have my resume in  
18 front of me. That would be great if I had that. I can  
19 just give you the closest dates that I can.

20 Q. Is the resume that you've produced in this case  
21 accurate?

22 A. I don't even remember what I've produced in this  
23 case. Did I produce one? I don't even remember.

24 Q. You did.

25 A. Okay. It could be. It should be. Should be as  
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1 accurate.

2 Q. Okay.

3 A. Then I went to a security guard.

4 Q. Okay. What were your dates of service as a  
5 security guard?

6 A. Not long.

7 Q. Years are okay? Was it 2002 to 2003 roughly?

8 A. Yeah, 'cause I -- yeah, something like that, and  
9 then I went from security guard to police officer, and  
10 then I went to the fire station I think in 2007.

11 Q. How long did you serve as a police officer?

12 A. Four years, I think.

13 Q. 2003 to 2007?

14 A. Something like that. I don't have the exact  
15 month, but yeah, it could be give or take a couple months  
16 or whatever.

17 Q. Were all of those positions, the firefighter  
18 position, the security guard position, the police officer  
19 position, were all of those at the Detroit Arsenal?

20 A. Yes, sir.

21 Q. Have you ever worked anywhere else other than the  
22 Detroit Arsenal as a civilian employee of the Army?

23 A. Yeah, I worked at -- a couple odd jobs here and  
24 there. I used to work at a confined space company in  
25 Detroit.

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1 Q. For the Army?

2 A. No, no, no, no. I'm sorry.

3 Q. Let me rephrase.

4 A. You said --

5 Q. Yeah, so, as a civilian employee of the Army --

6 A. Oh.

7 Q. Have you worked at the Detroit Arsenal the whole  
8 time?

9 A. Yes.

10 Q. Okay.

11 A. Yes, yes. I also had -- I was also a reserve  
12 police officer for other cities, you know what I mean,  
13 during the time that I was employed at the Detroit  
14 Arsenal, correct.

15 Q. What was your next position after police officer?

16 A. I went back to the fire department.

17 Q. Okay. When did you do that?

18 A. 2007.

19 Q. What was your job title?

20 A. Firefighter.

21 Q. Okay. What were your job duties?

22 A. Like you want specifics? Like firefighter. My  
23 job was a firefighter EMT, provide fire service for the  
24 base, provide healthcare EMT for the employees, and  
25 everything else that they wanted us to do, clean station,  
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1     you know, check out your vehicle.

2           Q.   How long did you serve as a firefighter in that  
3     position?

4           A.   Until I got sick.

5           Q.   When was that?

6           A.   January 11th, 2021.

7           Q.   What was the nature of your illness?

8           A.   COVID.

9           Q.   Did you supervise anyone in your role as a  
10    firefighter?

11          A.   It's not our job to.

12          Q.   What are the titles of the people above you in  
13    the chain of command?

14          A.   Captain, Assistant Chief, Fire Chief, and  
15    Director, and then garrison Deputy Assistant, and then  
16    garrison manager.

17          Q.   Okay. Who was -- let's start at the top. Who  
18    was the garrison manager?

19          A.   Can you be more specific of when you want that,  
20    sir?

21          Q.   Sure. Well, in the time that you served as a  
22    firefighter, who were the garrison managers?

23          A.   I think we've had three different ones.

24          Q.   Okay, who were they and what were each's  
25    approximate years of service?

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1 A. Yeah, Arthur Young has filled in that position.  
2 I think Bob Porter has filled in it I think. A couple  
3 different people have filled in as temporary.

4 Q. And how about the director position?

5 A. It's always been Mr. Young until he would sit in  
6 Deputy garrison, and then what's his name, it's a young  
7 guy in one of the buildings that filled in for him, I  
8 forgot his name. I don't remember his name, sir.

9 Q. Okay. What are the various activities that occur  
10 at the Detroit Arsenal, what is the Detroit Arsenal for  
11 someone who is unfamiliar with it?

12 A. Fire department? When you say various  
13 activities, can you clarify what you're asking?

14 Q. Other than the fire department, are there other  
15 functions on the property?

16 A. Oh, okay. We go out and do building inspections,  
17 go out and fill -- fill things with water when needed and  
18 bury road barriers, we do fire prevention week, do fire  
19 alarm testing, road holes.

20 Q. And those are your duties as a firefighter?

21 A. Yeah, those are all our duties as a firefighter,  
22 yes.

23 Q. Okay. You mentioned that you recently retired,  
24 correct?

25 A. Yes, sir.

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1 Q. What was the effective date of your retirement?

2 A. They said July 7th of this year.

3 Q. Okay. When was the last time you were on duty as  
4 a firefighter?

5 A. When I got sick, January 11th, of 2021, sir.

6 Q. Did you work at a fire -- as a firefighter any --  
7 anytime between January 11th, 2021, and -- and the  
8 present?

9 A. No.

10 Q. Between those dates, January 11th, 2021, and the  
11 present, have you received your salary or any portion of  
12 your salary?

13 A. Well, that question is -- the government does  
14 weird things. So, yes, and no. I received my salary  
15 until my time -- 'cause when you get sick on work, you go  
16 to worker's comp, and then I think the government goes 45  
17 days past that, and then you go into worker's comp. So,  
18 I received my salary to a certain period of time. I  
19 don't know --

20 Q. Through worker's comp?

21 A. Then I went on worker's comp, sir, so, yes.

22 Q. Okay. So, you --

23 A. So, yes and no. I don't know how to answer your  
24 question. Your -- your question is yes and partially no  
25 because I received my salary because of how the system

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1 is. You got sick at work, now you go to go through the  
2 process of filing your worker's comp paperwork so, you're  
3 still collecting where you work, so, I'm still getting  
4 paid by the government, and as soon as I found out that  
5 hey, you're now on worker's comp, I no longer got paid by  
6 the Army or the government or whatever, so, now I'm on  
7 worker's comp. Do you see what I'm saying.

8 Q. Okay, so -- so, you applied for and received  
9 worker's comp?

10 A. Yeah, yeah.

11 Q. Okay.

12 A. Yes.

13 Q. Before you received worker's comp, did you  
14 receive any portion of your salary?

15 A. Well, yeah, I took sick leave and annual leave.

16 Q. Okay.

17 A. Yeah, whatever leave I had. I had -- I got paid  
18 until I didn't get paid, then you know, by then hopefully  
19 my worker's comp would kick in.

20 Q. Okay.

21 A. So, yes.

22 Q. And did it kick in by that time?

23 A. Yeah, I mean, everybody did what had to be done  
24 during COVID, but yes.

25 Q. Was your retirement a disability retirement?

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1 A. Yes.

2 Q. Did the Army assist you in that process of  
3 receiving disability retirement?

4 A. What do you mean by assist?

5 Q. Did they assist you in any way in the process of  
6 getting disability retirement?

7 A. When you say the Army, you mean my organization  
8 where I -- the department?

9 Q. Correct.

10 A. Yeah, there was paperwork that had to be filled  
11 out, yes. So, yes. My department, the Chiefs and  
12 whoever was involved helped me get my paperwork lined up  
13 and forwarded forward, yes.

14 Q. When you were out due to COVID, did you suffer  
15 long-term effects of COVID?

16 A. Yes.

17 Q. Okay. When you were out due to COVID, were you  
18 hoping to get back to work as a firefighter?

19 A. Of course, of course.

20 Q. Okay. Why is that?

21 A. It's what I love to do. I've been doing it my  
22 whole life. I love to do it. I love helping people. I  
23 love doing things. Of course I wanted to get back to  
24 work.

25 Q. And why were you ultimately unable to return to  
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1 Q. Michael Fern.

2 A. Mike Fern, one of the inspectors, yeah.

3 Q. How's your relationship with him?

4 A. I get along with Mike real well.

5 Q. David Olman.

6 A. He's the new guy from Hawaii. Not bad, we get

7 along.

8 Q. Any issues with him?

9 A. In the beginning I did, but not now, just casual  
10 stuff.

11 Q. Jonathan Perkins.

12 A. Yeah, get along with Jon real well.

13 Q. Is he a firefighter?

14 A. Yep, one of the firefighters too.

15 Q. Matthew Holton.

16 A. Firefighter, yep.

17 Q. How's your relationship?

18 A. Get along real good. Good.

19 Q. Jeremy Bowie (phonetic).

20 A. Oh, Bouie, yeah.

21 Q. Bouie, sorry.

22 A. Bouie's to himself. I say hi to him a lot, about  
23 it.

24 Q. Is he a firefighter?

25 A. He's a firefighter too, yes.

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1 everyone having different feelings, so, I don't -- I  
2 don't know. I have no idea.

3 Q. What was Martin Potter's reputation at work?

4 A. Well, the shift that worked with him loved him,  
5 the shift that didn't work with him didn't like him. He  
6 was just hardcore, just always expected more of you, and  
7 always, you know, so.

8 Q. Did you say the shift that worked with him liked  
9 him?

10 A. Yeah, we get to pick shifts.

11 Q. Do you know why -- were you part of the shift  
12 that worked with him?

13 A. Never because I did everything I could to stay  
14 away from him --

15 Q. Okay.

16 A. -- once all this started because I couldn't work  
17 with him because of all this going on since 2008. I said  
18 this has got to stop, so, what I did, I had some  
19 seniority in the department, so, I would -- I would get  
20 to pick shifts, thank God, because if I had low seniority  
21 I'd be in trouble, I'd be working with him.

22 So, what I would do is I would -- when it came time  
23 for me to pick shifts I'm like, I wanted to get the days  
24 that my wife and I could be off so we can enjoy our time  
25 together, but I was limited because the guys that had --

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1 something's going on. If the fire chief had something to  
2 say he'd come out too. Edwards was always there for some  
3 reason. He was always at roll call. And then after roll  
4 call, you go to the board, find out where you're at on  
5 the truck, go sign out your truck, check out your  
6 equipment on your truck, do what you got to do. If  
7 you're a driver, you got to pull the truck out, check all  
8 the lights. Wherever you worked on a position, you would  
9 check out everything, and then you would check out the  
10 ambulance. You would check out a utility vehicle. So,  
11 you're busy doing a lot of things. Then you take your  
12 break, you have your morning break, and then we'd do some  
13 training. We had a lot of continued education training  
14 to maintain our licenses. And then you go to lunch,  
15 you're at lunch, and then afternoon you -- you did  
16 training again, and then you were downtime for that. And  
17 then at the end of the day, it's your time, you can go to  
18 your bunk, do whatever, or just sit in the kitchen, or  
19 the day room, and that was it and you waited for a call  
20 like every other department in the country, so.

21 Q. Okay, so, you just described kind of the daily  
22 routine?

23 A. Yeah.

24 Q. Okay. What about the atmosphere though, what was  
25 the atmosphere like? My understanding is that it's not

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1 like working in a typical office. Would you agree with  
2 that?

3 A. Oh, 100 percent.

4 Q. Okay.

5 A. I mean, you got a bunch of guys, everybody's got  
6 the alpha male thing, and you know, it was just a normal  
7 day life.

8 Q. First of all, is it an all-male workplace?

9 A. Yes, it's all male, yes.

10 Q. Okay. So, how does that affect the atmosphere?

11 A. It's good to know who you work with, and that's  
12 why you pick the shifts on who you can work with, who you  
13 get along with, and it was pretty much okay. If you  
14 wanted to do something, or I always say -- we all had  
15 extra duties, I had extra duties. I was on a bunch of  
16 other programs where I had to go and do other stuff, so,  
17 I'd be across the building too, because I had to do extra  
18 duties that I was assigned to at the time, so, and so,  
19 you're pretty much pretty busy until your duties were  
20 done, and then you kind of slowed down, unless the chief  
21 had something that had to be done right away, then you  
22 would focus on and get it done. We had a lot of training  
23 on the computer so we're always on the computer doing  
24 training, and then we were limited on computers, so, we  
25 had to wait, so. That was pretty -- I mean, the

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1 atmosphere was like any other fire department full of  
2 males, you know.

3 Q. And what is that -- describe that atmosphere, a  
4 fire department full of males, what does that mean?

5 A. I mean, nothing. We just talked about you know,  
6 if somebody gets a new truck, or somebody does this, or  
7 somebody went on a vacation they'd tell us about it. We  
8 just talked how it was, what's it like, so, that was it.  
9 That was pretty much the atmosphere, so.

10 Q. Okay. Do the firefighters consider each other  
11 like family or brothers?

12 A. Yes, yes.

13 Q. Did you consider your colleagues like family and  
14 brothers?

15 A. Yes. Just because you didn't get along with  
16 somebody doesn't mean you don't put your personal  
17 feelings aside. Like Captain DeArmon, I don't like him,  
18 what he said about my wife, but guess what, on a scene or  
19 on an accident scene or a thing, all that goes away  
20 because we have a job to do, we have to do that. See  
21 what I'm saying? So, you put that aside.

22 I don't have to like somebody just because I work  
23 with him, that's what Chief Edwards told me. The own  
24 fire chief says DaSilva, I don't like you, you just have  
25 to work for me. The chief said it in the kitchen in front

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1 of everybody, how do you think that makes me feel because  
2 of all this, he said it after this EEO and everything.  
3 I'm like wow, this is the fire chief telling me that, and  
4 he said it in front of everybody when we were having  
5 lunch. "DaSilva, I don't like you, you just have to work  
6 for me." I'm like oh great, this is the guy that signs  
7 off on my eval, so, that's the fire station. You see  
8 what I'm saying.

9 Q. Do you work extended shifts together?

10 A. What do you mean by that?

11 Q. How long are the shifts that you work with  
12 firefighters?

13 A. Oh, we do two on, two off, two on, three off.  
14 Sometimes you get stuck on overtime, so, you do another  
15 day. I think because of the union contract or something,  
16 we can't do more than I think 72. I think it's changed.  
17 Some guys have done more, but yeah, sometimes you're  
18 there three, three days, four days straight.

19 Q. Okay. So, the typical shifts are 48-hours, 72-  
20 hours?

21 A. 48-hours, yeah. 48 on, 48 off, then 48 on, 72  
22 off, so.

23 Q. Okay.

24 A. But sometimes you get stuck three, four days  
25 there in a row.

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1 Q. Are there ever -- are there ever any 72-hour  
2 shifts?

3 A. Yeah, it happens quite a bit. Yes, it happens a  
4 lot.

5 Q. Do the firefighters eat their meals together?

6 A. Some do, some don't.

7 Q. Do they play games with each other?

8 A. Yeah, some do, some don't, yes.

9 Q. Watch TV together?

10 A. Yep.

11 Q. Watch movies together after hours?

12 A. Yeah, in a day room, yeah, or we're out there  
13 playing cornhole, back of the ladder bay playing  
14 basketball, whatever, yeah.

15 Q. Now, do firefighters sleep at the Detroit  
16 Arsenal?

17 A. I'm sorry?

18 Q. Do firefighters sleep at the Detroit Arsenal?

19 A. Yes, sir. We're there 48 hours. We sleep, we  
20 have a kitchen, and we all have our bunks.

21 Q. Okay. Tell us about the kitchen and the bunks.

22 A. Tell us about what?

23 Q. The kitchen and the bunks.

24 A. What do you want to know? It's a big kitchen,  
25 and it's a bunk area where like 12 firefighters sleep,

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1 'cause the opp -- the other 12 are off or whatever.

2 Q. Do firefighters cook meals in the kitchen --

3 A. Yeah.

4 Q. -- together?

5 A. Well, not all of us are good cooks. We have a  
6 couple good guys that are cooks, so, we'll just you know,  
7 figure out hey, we all want to eat together, we're like  
8 yeah, we'll have spaghetti, okay, so, I usually go the  
9 store, pick up everything they need, and everybody just  
10 pays you how much it was, and they cook, and we all eat.

11 Q. And you mentioned the bunk rooms too that you --  
12 that the firefighters sleep in.

13 A. Yep.

14 Q. Okay. Where -- can you describe the bunk rooms?

15 A. They're just cubicles with a curtain, so, you  
16 really have no privacy.

17 Q. Is there a bed?

18 A. There's a bed, they're murphy beds. There's two  
19 firefighters in one bunk. So, when the opposite guy is  
20 gone, his bunk comes up, and yours comes down, so.

21 Q. And you mentioned there was curtains?

22 A. Yeah.

23 Q. To separate them?

24 A. Well, no, walls separate them like a cubical  
25 wall, but your door into your bunk is like a little

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1 curtain.

2 Q. Are firefighters essentially -- do they  
3 essentially live together for days on end?

4 A. Well, yeah, you're there for 48-hours, yes.

5 Q. Is it like a second family?

6 A. Yes.

7 Q. Is there a lot of swearing?

8 A. Yeah, I ain't going to lie to you, totally.  
9 Especially when somebody hurts themself and yeah, you  
10 always hear it. Slam the door, oh shit, fuck, it's like  
11 oh, that hurt, you know, that's just --

12 Q. Okay. What about swearing just in everyday  
13 conversation?

14 A. Pretty much everybody does it.

15 Q. Uh-huh.

16 A. I've done it.

17 Q. Is there a lot of ribbing?

18 A. A lot of what?

19 Q. A lot of ribbing, and joking around between  
20 firefighters?

21 A. I don't understand that word.

22 Q. Joking around between firefighters.

23 A. The other word you used.

24 Q. Ribbing?

25 A. I don't understand what that means.

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1 always happen.

2 Q. Was there a lot of fire -- a lot of times when  
3 firefighters would kind of playfully or make fun of each  
4 other in a good-natured way?

5 A. Sometimes, yeah.

6 Q. Can you give us some examples of that?

7 A. I don't have any, I mean, I don't remember them.  
8 I don't have any examples to give you, I mean.

9 Q. You can't think of any examples of joking around  
10 with your colleagues, or jokingly playing around?

11 A. Oh, probably like hey, you bought that truck,  
12 why'd you buy a Ford, you should have bought a Chevy, you  
13 know Found on Road Daily or Dead, whatever. I mean,  
14 those things, that's what I've heard, you know. I don't  
15 really remember anything.

16 Q. Okay. What about arguing or banter?

17 A. Say it again.

18 Q. Arguing and banter, was there arguing and banter  
19 that occurred?

20 A. Define banter please, or I don't know what banter  
21 means, so.

22 Q. Okay. Did firefighters argue with each other  
23 ever?

24 A. Not that I notice. I mean, there's always --  
25 there could have been one or -- yeah, people argue. They

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1 can't -- but if they're over there arguing, I don't know  
2 what it's about, so, yeah, there's probably been  
3 arguments, of course, 100 percent.

4 Q. Have you heard the term station talk?

5 A. Yes.

6 Q. What does that mean?

7 A. I don't know what it means. It's more like  
8 'cause you live there, you know, you know what you can  
9 say or can't say. I don't know, it's like you respect  
10 people you know, just like the example of like oh, you  
11 drive that truck, you should have bought a Chevy, you  
12 know what I mean. That's the only thing I can think of,  
13 or why aren't you out there rolling hose, you know, it's  
14 too heavy for you or whatever, I don't know. That'd be  
15 like banter, I don't know. I don't know what that means,  
16 so, that's the best I can give you.

17 Q. Okay. Did you ever engage in station talk?

18 A. Yes.

19 Q. Can you give us some examples of that?

20 A. I don't remember my examples. Same thing, like  
21 why'd you buy a Chevy, you know, I've got a Ford, you  
22 know, mine's better than yours, or you paid too much for  
23 that truck. We've done that, you know.

24 Q. Can you think of any examples of you making fun  
25 of firefighters or poking fun at firefighters?

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1 A. No, I don't have any examples of that.

2 Q. Did it ever happen?

3 A. Probably, but I don't remember much of it.

4 Q. Can you give -- can you give some examples of  
5 people making fun or poking fun at you in a playful way?

6 MR. ALTMAN: Objection, form.

7 THE WITNESS: Say that again.

8 MR. ALTMAN: You can ans -- you can answer the  
9 question, it's just a technical --

10 THE WITNESS: I don't -- I don't have an answer.  
11 I mean, I don't remember. That wasn't my focus of my  
12 job, I'd rather just -- you know.

13 BY MR. ANCHILL:

14 Q. So, you can't think of any examples of when  
15 firefighters would -- or anyone at work would playfully  
16 make fun or poke fun at you?

17 A. Well, most of the people technically made fun of  
18 my son, so, I don't want to bring that up, but he's  
19 asking. So.

20 MR. ALTMAN: Well, if it's your son, it's not  
21 you.

22 THE WITNESS: I know, so, me -- you know, oh  
23 yeah, I have guys say you should have gone back to the  
24 cop, you'll be -- you're a better cop than you are a  
25 firefighter. People said that to me before. You know,  
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1 We used to watch her every single morning, all of us.

2 Q. Did you ever comment that you would bang her?

3 A. No.

4 Q. Did you ever comment that you'd hit that?

5 A. No.

6 Q. How often did you swear at work?

7 A. I have no idea. I can't answer that. I don't  
8 know. Even if I -- I don't know when I did, or if I did,  
9 define swear. What is swear? Is shit swearing, is like  
10 you see what I'm saying? When you say swear --

11 Q. You don't know what a swear word is?

12 A. Well, everybody can -- a swear word could be a  
13 lot to different people. So, I'm asking you what -- what  
14 are you asking me and be more specific in your question.

15 Q. Do you know what a swear word is?

16 A. Depends on how -- who you're asking. So, a lot  
17 of things can be a swear word. So, I'm asking you what  
18 you want to know if I've asked, be a little bit more  
19 specific please, and I can tell you if I've said it.  
20 Everybody's interpretation of a swear word is a lot  
21 different.

22 Q. What are -- what's your interpretation of a swear  
23 word? Say them.

24 A. Something a kid shouldn't hear.

25 Q. Yeah, say -- say them all. Everything that you  
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1 consider to be a swear word.

2 MR. ALTMAN: Objection, form.

3 BY MR. ANCHILL:

4 Q. Go ahead and say it.

5 A. Shit, hell, fuck.

6 Q. Okay. Anything else?

7 A. Asshole -- asshole. Whatever people want to say  
8 is a swear word, to me, you know.

9 Q. Okay. Have you ever used any of those words that  
10 you just named at work?

11 A. Sure.

12 Q. How often?

13 A. I have no idea.

14 Q. Give us a ballpark.

15 A. I don't have a ballpark. I don't have a -- I  
16 don't have an idea.

17 Q. Daily?

18 A. No. I mean, you hit your hand, you say oh shit,  
19 fuck, I don't know. You know, how many times you close  
20 your hand on the door of the ladder and you do something,  
21 or you fall and hurt yourself you swear, not intentional,  
22 so. I couldn't tell you how many times if I even said it  
23 at all.

24 Q. Okay.

25 A. But I've said it, I have said it. I'm not saying  
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1 Q. Did you ever do that to John the mechanic?

2 A. John the mechanic, I don't recall doing that to  
3 John. I'm good friends with John. So, I don't know.

4 Q. Have you ever heard of something called the  
5 Biggest Loser competition?

6 A. Yeah, the weight loss thing. We did it at the  
7 fire station.

8 Q. Tell us about that.

9 A. It's been so long, I don't even remember. Just  
10 we all agreed to see who can lose the most weight.  
11 That's all I remember.

12 Q. So, would you have a competition about that?

13 A. Yeah, everybody did, so, that's all I remember.  
14 It's been so long. See who can lose the most weight.

15 Q. And were there wagers involved?

16 A. I don't remember if there was wagers, because  
17 you're not supposed to wage at the government level, so,  
18 I don't remember.

19 Q. You don't remember whether there -- there was  
20 never a wager associated with the biggest loser  
21 competition, a weight loss competition?

22 A. I don't remember. From what I recall, you  
23 weren't supposed to wage anything, but I don't remember,  
24 so.

25 Q. Did food ever serve as the currency so to speak?

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1 lose, you know. It's been so long. I don't even  
2 remember most of the conversations.

3 Q. Was there a playful back and forth about weight  
4 loss competitions between the firefighters?

5 A. There might have been. Like I said, I don't  
6 really remember the conversations.

7 Q. Were all the conversations surrounding the  
8 biggest loser competition good natured?

9 A. I think so.

10 Q. Did anyone ever poke fun at people's weight as  
11 part of those competitions?

12 A. I don't remember. It's been so long.

13 Q. When did you first meet Martin Potter?

14 A. When I -- when I became an EMT I think.

15 Q. What year?

16 A. 2000, I think, when I got hired there.

17 Q. What were Potter's job titles over the time  
18 you've known him?

19 A. Firefighter, captain, assistant chief, and fire  
20 chief now. Wait, did we have sergeants or captains or  
21 lieutenants? I don't remember. There might have been a  
22 sergeant and lieutenant there for a short period of time.  
23 I don't really remember it.

24 Q. Tell us about your relationship with him over the  
25 years and how it -- how it may have or -- how it may have

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1 A. I have no idea.

2 Q. Was there ever a time when your relationship with  
3 him was good?

4 A. Yeah. I thought there was a time when the  
5 relationship was -- he did -- one thing he did do, and  
6 I'll give him credit for was he drilled us on the  
7 hydraulics. He actually -- he taught a class, and he  
8 made it understandable. I thought that was great, so.

9 Q. What period of time when was your relationship  
10 with him good?

11 A. Well, it was never good because of the way he  
12 treated people. He always degraded you, and laughed at  
13 you, and made fun of people, and you know, if you were --  
14 the problem is we have our -- the problem is our base is  
15 -- our department is -- they have their favorites. They  
16 have people they like, and they have people they don't  
17 like, and it's obvious in our department. You know, and  
18 -- and -- and that was it. I thought -- I thought it was  
19 decent, and then it's like you know, started getting a  
20 little more intense. I'm like whoa, this is getting out  
21 of hand, so.

22 Q. Who are the people Potter liked and did not like  
23 to your un -- to your knowledge?

24 A. Well, the guys that he liked are the guys that  
25 are probably on his shift. They always picked his shift

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1 Q. Did -- did you set Potter up with your sister-in-  
2 law on a blind date?

3 A. Yeah, we went on a blind date. Sure did.

4 Q. Okay. What year was that?

5 A. I don't remember the year. I really don't.

6 Q. Approximately.

7 A. It was early. I don't have a clue. That I don't  
8 remember.

9 Q. Did you two go to an art fair together?

10 A. Yep.

11 Q. Okay, so, this is what I mean when I say -- when  
12 I ask you --

13 A. Yeah.

14 Q. -- to tell me about the time when your  
15 relationship was good.

16 A. I forgot about that. Yep, you're absolute. And  
17 that wasn't good either.

18 Q. What was your relationship like when it was good?

19 A. At that -- the problem is that's what it was, it  
20 wasn't good, because you know what, that day when he went  
21 -- when we went with my wife and her sister and we went  
22 on this so-called date, we all got together, all he did  
23 is degrade me in front of my wife and my sister-in-law.  
24 All he did is made fun and laugh at me, so, technically  
25 it wasn't even good. It was the worst thing I ever did

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1 in my life. I'm like God, this guy's treating me like  
2 shit in front of my own wife and my sister-in-law.  
3 That's all he did was degrade me, just make fun of me in  
4 front of my wife and my sister-in-law. And it was fine,  
5 I said, we're done. At that point, and it was early.  
6 Like I said, it was really early in my career.

7 Q. Can you ballpark the year?

8 A. I can't. Probably when I came -- I don't know if  
9 -- I think it was before -- yeah, it was before I came --  
10 it was probably when I was a term, 2002 or 2003, I don't  
11 remember exactly.

12 Q. Okay.

13 A. No, 2000 -- I think it was 2001. I don't  
14 remember it to be honest with you. It was a long time  
15 ago.

16 Q. And when he made fun of you and berated you on  
17 the date, what did he say?

18 A. Say that again?

19 Q. When he made fun of you and berated you on the  
20 date, when you were on the date --

21 A. I mean, just --

22 Q. -- what did he say?

23 A. I don't remember exactly the words. It's been so  
24 long.

25 Q. Sure, but what was the gist?

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1           A. I don't remember it. It's been so long that I  
2           never wanted to remember that day again because I felt  
3           bad for my sister-in-law, 'cause you know, I really don't  
4           remember. That's the honest to God truth. I know it was  
5           so bad that I was like wow, so.

6           Q. And do you have a sense for why he did that?

7           A. No.

8           Q. Or a belief?

9           A. Nope, none at all.

10          Q. Did -- is it accurate to say that you and Potter  
11          had a personality conflict going way back to 2002 or  
12          2003?

13          A. I guess. I don't know what that means. Explain  
14          that. What do you mean, personality?

15          Q. You didn't like each other.

16          A. Oh yeah, we both did -- yeah, totally. Yeah, he  
17          didn't like me, I didn't like him, 100 percent.

18          Q. Okay. Do you have a sense for why he didn't like  
19          you?

20          A. I have no idea.

21          Q. Okay.

22          A. Because I wasn't one of his boys on his shift, I  
23          don't know. Because I stood up to the -- problem with  
24          me, I stood up to the management. I wasn't scared to  
25          question him, so.

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1 Obviously Potter, right?

2 A. Yes.

3 Q. Anyone else?

4 A. Not that I know of.

5 Q. Okay. Another claim that you raise in this lawsuit  
6 is a retaliation claim, right?

7 A. Yes.

8 Q. Okay. Who retaliated against you?

9 A. Well, he did because the first EEO.

10 Q. Potter?

11 A. And Mr. -- yeah, and Mr. Young too, because they  
12 never -- they retali -- it's retaliation and reprisal from  
13 the first EEO complaint that the sexual statements of me  
14 wearing a B-size bra would stop as of today. We signed that  
15 contract. We signed that agreement and it continued, so  
16 that's where that comes from.

17 Q. Okay, so, right now I'm just looking for a list of  
18 names. So, the two people who retaliated against you are  
19 Potter and Young, right?

20 A. Yes.

21 Q. Anyone else?

22 A. No, sir.

23 Q. Okay. What did Potter do to retaliate against you?

24 A. From when, what time, what are you asking me like  
25 when?

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1 Q. What else if anything?

2 A. From what I recall that he was not going to support  
3 me in anything. He was no longer going to support me in  
4 anything I wanted to do. He told me to my face.

5 Q. What did he not support you in?

6 A. He usually writes me a reference letter if I want to  
7 look for something, do whatever, and he says he's going to  
8 stop doing that be -- he told me I'm going to stop doing that  
9 because you're not a team player. He says you had other  
10 options. You should have went a different route. I'm like  
11 wow, okay. So, that was it.

12 Q. Okay. Anything else Young did to retaliate against  
13 you?

14 A. Nope.

15 Q. Okay. Did you ask him for a reference letter that  
16 he denied giving you?

17 A. Yep.

18 Q. Okay. What was the reference letter for?

19 A. I was going to go apply for a part time position.  
20 He said nope, we're done. I said okay, so.

21 Q. We discussed earlier a sex discrimination claim  
22 against Potter. What did Potter do? Strike that. Let's get  
23 into your hostile work environment claim.

24 A. My what?

25 Q. Your hostile work environment claim.

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1 A. Okay.

2 Q. So, when is the first time he said -- he said that  
3 you should wear a B-sized bra?

4 A. That was in 2008.

5 Q. Okay. What did he say?

6 A. He just said it. So, I bet you can wear a B-sized  
7 bra.

8 Q. Okay. Who observed that?

9 A. Back then, I don't have a clue. I don't remember.

10 Q. What was the context of the conversation?

11 A. I don't remember.

12 Q. What did you say after he said that?

13 A. I have no idea. I don't remember, sir. It's been  
14 so long.

15 Q. Okay. What is the next hostile act that contributes  
16 to your hostile work environment claim?

17 A. When I requested training from 2008, the next one, I  
18 used to request training. Like I said, they'd send -- I  
19 remember they sent Fern and Beal to -- we were all  
20 firefighters at the time, they got to go to driver operator  
21 school. I didn't get to go, and I requested, oh, we have no  
22 money for you. And then when those guys got their  
23 certifications, they got promoted, and they got a step  
24 increase grade before me. I was like wait a minute, why  
25 wasn't I offered this? So, that's something that started it

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1 too.

2 Q. Okay. When -- when were you denied the driver  
3 operator training? What year?

4 A. I don't remember what year. That was probably 2009  
5 or '10. I don't remember when it was. It was right after  
6 that. I mean, it was whenever we were all trying to get our  
7 cert -- certifications, so.

8 Q. Okay. What is the next act that you contribute --  
9 that you believe contributes to the hostile work environment?

10 A. My evaluation. The statements again, hey, I bet you  
11 could wear a B-sized bra.

12 Q. Hang on. We're going one by one.

13 A. Oh, okay. The again, the statement was can you wear  
14 a B-sized bra, and that was -- I don't remember when that  
15 was, but it was done. I remember when we were rolling hose  
16 'cause we all do our own hose testing, and it was hot  
17 outside.

18 Q. Okay. So, there was a second statement by Potter  
19 that you should wear a B-sized bra?

20 A. Oh, yeah.

21 Q. Okay.

22 A. This was -- this was continuous, I mean.

23 Q. Okay, now I want to go through each one. So, you  
24 mentioned that there was a second statement that Potter said  
25 to you you should wear a B-sized bra. When did that second

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1 statement occur?

2 MR. ALTMAN: Objection, form, and misstates his  
3 testimony.

4 THE WITNESS: I don't remember exactly when. It was  
5 -- it was on and off, because like I said, I worked two, off  
6 two, and then I'm on vacation for a while, then he's on  
7 vacation for a while. I mean, it continuously happened in my  
8 career there, you know. And like I said, because of our off  
9 time, and vacation time, you know, I only worked 15 days a  
10 month technically, so, it's not like it happened every day,  
11 so, but that was part and then we were rolling hose and doing  
12 hose testing, and I remember coming in, who was with my  
13 Kumlin, firefighter Kumlin was with me, and we come in, and  
14 then Chief Potter had a pencil in his hand and he goes, hey  
15 DaSilva, but you can put this pencil -- you know, you can  
16 hold it with your -- with your breasts, hold this pencil  
17 under with your breasts. I'm like whoa. So, that was one,  
18 and then --

19 BY MR. ANCHILL:

20 Q. Did that occur in the same conversation as the B-  
21 size -- the second B-sized bra --

22 A. No, that was a different one.

23 Q. Okay.

24 A. Sorry.

25 Q. We're only discussing the B-sized -- the second B-

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1 about a bra, you wearing a bra?

2 A. Many times. I can't give you a number.

3 Q. Ballpark it.

4 A. It was just -- I don't have a ballpark. It was just  
5 -- it was done continuously until the 2018 that it stopped  
6 because that's when I filed the SHARP complaint. So, it was  
7 a lot of times. I don't have a number, but it was definitely  
8 a lot of times.

9 Q. Did you ever tell him to stop saying it?

10 A. I said it in my EEO complaint.

11 Q. Before that, did you ever tell him to stop saying  
12 it?

13 A. No.

14 Q. Okay. Did you ever tell him it was unwelcome?

15 A. In my EEO complaint.

16 Q. Before that?

17 A. No.

18 Q. Okay. So, after the pencil test comment, what was  
19 the next act that you believe contributes to the hostile work  
20 environment?

21 A. Trying to think, it's been so long and so many  
22 things have happened. I don't -- I don't remember anymore  
23 other than the -- the next one would be my EEO for my  
24 evaluation. That truly gave me a hostile work environment  
25 because I'm already being treated differently, so.

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1 I've got to come to work every day knowing that because I did  
2 this and this, they can't even do the right thing to make  
3 this even legit.

4 Q. But you testified earlier that you don't know who  
5 made the decision as to what punishment to give Potter.

6 A. It doesn't matter who made the decision. I already  
7 know the decision was not the proper -- the guidance that the  
8 Army requires. Because if it was me, I'd be out of a job  
9 today. We wouldn't -- I wouldn't be here. My job -- I would  
10 have been fired if this was me.

11 Q. Okay. Was all of the harassment that makes up your  
12 hostile work environment claim verbal? Other than the  
13 evaluation because that was in writing.

14 A. Yeah, that was in writing, that was --. Well, the  
15 email I got too. Are you counting that?

16 Q. Which email?

17 A. The email that Chief Potter sent when I sent my --

18 Q. With regard to the evaluation?

19 A. With regards to the evaluation.

20 Q. Yes.

21 A. Okay, so, you're counting that.

22 Q. It was all verbal --

23 A. All verbal.

24 Q. -- all verbal harassment?

25 A. Yes.

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1 Q. Okay.

2 MR. ALTMAN: Is this a good time to break?

3 MR. ANCHILL: Sure. Okay. What do you want, a half  
4 hour?

5 MR. ALTMAN: Yeah, let's try -- wait.

6 MR. KONCIUS: Do you want to go off?

7 MR. ANCHILL: Yes.

8 (At 1:02 p.m., off the record.)

9 (At 2:10 p.m., deposition resumes.)

10 BY MR. ANCHILL:

11 Q. Before the break, we were talking about various  
12 statements that Potter made to you that you found to be  
13 harassing. What do you think motivates Potter to make these  
14 statements to you?

15 A. I don't have a clue.

16 Q. Okay. Is it -- is it your impression that Potter is  
17 intending to joke with you?

18 A. I don't know.

19 Q. Okay. Is there any reason that leads you to believe  
20 that Potter is not joking with you?

21 A. I don't know what somebody --

22 MR. ALTMAN: Objection, form.

23 THE WITNESS: Yeah, I don't get how -- I don't know  
24 if somebody is joking or not. I don't -- I can't answer. I  
25 don't know how to answer that, just I don't know.

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1 BY MR. ANCHILL:

2 Q. Okay.

3 A. You don't know what somebody's thinking or feeling  
4 or what they want to say.

5 Q. Sure, and I'm just asking 'cause you were there, so,  
6 I'm just asking about your impression with regard to the  
7 things he said. Did it appear to you that he was trying to  
8 joke?

9 A. I don't know. I don't think so. I don't know.

10 Q. Do you believe that Potter made these statements to  
11 you -- when he made the statements to you that he was  
12 motivated by sexual desire toward you?

13 A. I have no idea.

14 Q. Okay.

15 A. I don't know.

16 Q. Do you believe that Potter said these things to you  
17 because he doesn't like you?

18 A. Yeah.

19 Q. Okay. And do you have any understanding of why he  
20 doesn't like you?

21 A. Do I have -- do I understand? My thought, is that  
22 what you're asking?

23 Q. Yeah, your impression?

24 A. My impression, I would say because I question things  
25 like training and why do other people go and I can't go,

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1           A.    Oh, there was more than that. Did you want those?  
2    There was other statements too.

3           Q.    Is there anything we haven't already talked about?

4           A.    Yes. When I -- he made a statement in the kitchen  
5    in front of basically everybody, and I was walking into the  
6    kitchen to put a cup into the dishwasher, and when I walked  
7    in, the TV was on, he was standing next to the TV. Chief  
8    Tillman was in the -- the little utility closet because a  
9    couple of the other guys were just in the kitchen, and they  
10   were all laughing, and I came in to put the dishes in. When  
11   I came out, when I turned around to walk out, he's like, hey  
12   DaSilva, tell us what it's like to get a breast implant. You  
13   had it, how much does it cost? I was just like wow. And I  
14   looked at Chief Tillman in the eyes because I was like --  
15   'cause that was just the -- it was right there, and I walked  
16   completely out. And that was -- that was the end of  
17   everything. And he said that in front of everybody and the  
18   guys were laughing, guys were just -- you know, the other  
19   guys were laughing, and I felt like emasculated. I felt  
20   embarrassed. I felt -- it was horrible, and that's when I  
21   went -- I left the station, and I said -- I went right to  
22   SHARP. I went -- I just immediately went to SHARP and I'm  
23   like this is it. I just can't do this anymore and I went to  
24   SHARP, and I left. I couldn't go to the fire chief because  
25   he made the statement about my wife in the kitchen before.

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1 So, I can't go to that chief because he did the same thing.  
2 So, then I didn't -- you know, the director didn't do  
3 anything to him, so I went ahead and went right to SHARP,  
4 right down to another building, filed my SHARP complaint, and  
5 then went to EEO and filed it, and that's where we're at  
6 here. So, that's what was said in the kitchen.

7 Q. Okay. Tell us all the comments that were made that  
8 you consider to be sexual harassment. So we have the  
9 comments about wearing a bra, correct?

10 A. The B-sized bra, yep.

11 Q. Okay. And you don't know how many times that  
12 comment was said?

13 A. A lot of times. In many years it was a lot -- it  
14 was said a lot.

15 Q. But you can't give any kind of --

16 A. I can't but it was just -- it was -- it was -- it  
17 was, you know, it wasn't -- it wasn't done every day because  
18 I didn't work every day. So, I'm telling you that, it was  
19 done -- it was said more than it should have said. It was  
20 said a lot. And then --

21 Q. But you have no idea how many times.

22 A. Like I said, I worked 15 days a month, you know, I  
23 don't see him as much. I try not to work with him. I used  
24 all my sick leave to stay away from him. It was said a lot.  
25 That's all I know. The one in the kitchen, that was only one

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1 time because after that they said he had to stay away from me  
2 because the investigation was going on. So, that was only  
3 said once. The wearing a B-sized bra, that was said numerous  
4 times, many, many time. And then to hold a pencil under my  
5 breast, that was -- that was only one time. So.

6 Q. Okay. Other than the statements about the bra, the  
7 one statement about breast implants, and the one statement  
8 about the pencil test, are there -- is there anything else  
9 that you believe constitutes sexual harassment?

10 A. No.

11 Q. Okay. Do you believe that Potter is motivated by  
12 hostility toward the male gender when he makes these  
13 statements to you?

14 A. Excuse me? Rephrase that.

15 Q. Yeah, I'm trying to understand why you believe  
16 Potter says these things to you.

17 A. Why?

18 Q. Yeah. Why?

19 A. I --

20 Q. What's your impression? Is he joking?

21 A. I don't have an impression.

22 Q. Is he hostile?

23 A. I can't tell you why somebody does something. I  
24 don't know, sir. I can't answer that. I don't know why he  
25 did what he did. I'm sorry, I can't. I don't know what to

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1 answer there. I don't know the answer.

2 Q. Do you believe that he's sexually attracted to you?

3 A. I don't know. I hope not.

4 Q. Do you believe that he has general hostility towards  
5 the male gender?

6 A. I don't know, sir.

7 Q. You mentioned that Edwards made one statement to you  
8 regarding your wife.

9 A. Yes.

10 Q. Correct? What do you think motivated that  
11 statement? Do you believe Edwards was trying to make a joke  
12 with you?

13 A. I have no idea, sir. It was totally inappropriate,  
14 totally wrong. The man doesn't even know my wife. He had no  
15 reason to say that to my wife -- to say --

16 Q. I understand --

17 A. Just another form of sexual harassment. Now it was  
18 done by the fire chief.

19 Q. I understand that it's wrong, but I'm wondering if  
20 you had any impression or any belief as to what motivated him  
21 to say that.

22 A. I don't know him. I didn't know him that long. He  
23 wasn't there long to know him, so, I have no idea why he said  
24 it.

25 Q. Right before he said that statement, did he make a  
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1 A. That's what you're talking about?

2 Q. The question is --

3 A. Just --

4 Q. Yeah, please listen to the question.

5 A. Okay.

6 Q. The question is have we discussed all the acts that  
7 comprise your sexual harassment claim?

8 A. (Pausing, reading documents.) Okay, one thing,  
9 sorry. I'll look one more time. The only thing I don't see  
10 here is my original EEO, that might have more, so, I would  
11 say for now, yeah. But unless I could have a copy of my EEO  
12 complaint, the official one, 'cause that one I got more  
13 specific I think, so. So, I'll say that's to the best of my  
14 knowledge, yeah, that would be it, sir.

15 Q. You allege in your lawsuit that Potter discriminated  
16 against you by interfering with your request for a transfer  
17 or a promotion. What are all the transfers and promotion  
18 requests that you believe Potter interfered with because of  
19 discrimination or retaliation? Just go ahead and list them.

20 A. Ask me that one more time please a little slower.

21 Q. Sure. Do you allege that Potter discriminated  
22 against you by interfering with a request that you made for a  
23 transfer or promotion?

24 A. Yes.

25 Q. Okay. What transfer or promotion did he interfere

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1 with?

2 A. They allowed him to interview me.

3 Q. Was that for the -- the captain position in 2019?

4 A. Yes, sir.

5 Q. Are there any other transfers or promotions that you  
6 allege Potter interfered with?

7 A. I thought I requested something else, but I don't  
8 remember what it was now. I don't remember the other one. I  
9 think maybe it was an opposite shift or something. I don't  
10 remember what it was.

11 Q. And I'm referring to allegations that you make in  
12 this lawsuit.

13 A. Yeah.

14 Q. Are there any other transfer, promotion requests --

15 A. It's the interview -- I would say that. It's the  
16 interview.

17 Q. Okay. So, the only one you're alleging as part of  
18 this lawsuit is the captain position that you were seeking in  
19 2019?

20 A. Yes, that I can recall. Yes, that's the only one.

21 Q. How many people were on your interview panel?

22 A. I don't know, five, six maybe. I think seven, I  
23 don't know.

24 Q. Who were the people on your interview panel?

25 A. I don't remember. Me --

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1 didn't say why, you know what I mean. I said I'm asking for  
2 an individual to be removed before I start the interview  
3 process 'cause it's unfair because I have an active going --  
4 you know, EEO lawsuit going. Can you please remove the  
5 individual? Well, Ms. Kleehammer says business as usual, Mr.  
6 DaSilva. We don't care. And I had to sit there and try to  
7 do my best on the interview.

8 Q. Okay. So, do you allege that the EEO official  
9 Melissa Kleehammer discriminated against you?

10 A. Oh yeah, 100 percent. Yeah, because when I went to  
11 her with Chief Edwards comment to my wife, she said to me  
12 well, it only happened once. Do you really want to follow  
13 through up on it? I'm like really, so yeah, 100 percent.

14 Q. You don't allege any discrimination by Tillman,  
15 Ball, or Todd, do you as part of this lawsuit?

16 A. No.

17 Q. Why do you believe that Potter harmed your chances  
18 of obtaining the promotion?

19 A. I just -- the guy was just found guilty of sexual  
20 harassment, and now you put him on a panel, how do you think  
21 anybody -- any normal human being would be like seriously,  
22 you're going to put this man on a panel knowing that there's  
23 still a lawsuit, and he -- he was just found guilty of this,  
24 and -- and of course, that's just -- I'm sorry. The question  
25 is just insane. You don't do that. Any normal human being

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1 Q. When you -- if you were asked to identify your  
2 weaknesses, do you -- do you recall responding by saying you  
3 don't have any weaknesses?

4 A. I don't remember.

5 Q. Is it possible that you said in response to that  
6 question that you don't have any weaknesses?

7 A. I don't remember.

8 Q. Okay. Were you asked about standards of cover in  
9 the interview and how they are used to make decisions?

10 A. Standard -- I don't even know what that -- I don't  
11 remember that. I don't -- don't remember, so.

12 Q. Do you know what standards of cover are?

13 A. No.

14 Q. Do you know what that is?

15 A. No, that's why I'm asking. I don't know what that  
16 is, so.

17 Q. And you don't recall whether or not that -- whether  
18 or not that was mentioned in your interview?

19 A. I don't remember, sir.

20 Q. Okay. Who was ultimately selected for the captain  
21 position that you were passed over for?

22 A. I don't remember who got that one that year. They  
23 have so many.

24 Q. Was it Sean Beal?

25 A. It might have been Beal, yeah. I think it was Beal  
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1 now that you said it. It might have been Beal, I don't  
2 remember.

3 Q. By the way, is captain synonymous with lead  
4 firefighter?

5 A. Say that again.

6 Q. Is the title captain synonymous with lead  
7 firefighter?

8 A. What's that mean?

9 Q. Are the two -- are the two the same? Are the two  
10 positions referring to the same position?

11 A. One is a lead. That's all. He's not a supervisor.

12 Q. Okay.

13 A. So, he's a lead firefighter. That's all. He's not  
14 a supervisor in any way, shape, or form. He doesn't  
15 supervise, he just -- he's there with us.

16 Q. Do you believe that Sean Beal was more qualified or  
17 less qualified than you for the captain position?

18 A. Not my job to make that determination, sir.

19 Q. Do you have a belief?

20 A. Not with that. It's not my job to determine who  
21 should have got it.

22 Q. Do you have any reason to believe that you are more  
23 qualified than Sean Beal for the captain position?

24 A. I'm just as qualified as everybody else that  
25 interview that day because I made the list like everybody

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1 the lady asked me for. It was a different EEO office 'cause  
2 it wasn't our original one. So, it was a whole new person  
3 that I didn't know because our original EEO office was going  
4 through some changes. So, yeah, it doesn't mean I didn't.

5 Q. That section of the EEO complaint asks you to list  
6 on what basis you believe you were discriminated against and  
7 to check the box next to the bases for the discrimination,  
8 and you checked national origin and reprisal, but you did not  
9 check sex, correct?

10 A. Well, sex means male or female, so, I'm a male,  
11 obviously I'm a male, so, I don't know why I didn't check  
12 that. Like I said, the lady said you didn't -- this is all  
13 good, you don't have to go any further. So, that's just  
14 saying I'm a male or female, so.

15 Q. Let's talk about the factual basis for this EEO  
16 complaint.

17 A. Yes, sir.

18 Q. In paragraph 'a' you allege that Potter  
19 discriminated against you by giving you a successful rating  
20 on your performance review instead of an excellent rating on  
21 the performance evaluation that you received on February 2nd,  
22 2017.

23 A. Correct.

24 Q. Can you take a look at exhibit one for a moment,  
25 your lawsuit? Take a look at exhibit 15 please, or I'm

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1     sorry, paragraph 15.

2           A.     Okay.

3           Q.     Does paragraph 'a' of your EEO complaint -- okay,  
4     right there, refer to the same performance evaluation as  
5     paragraph 15 of your lawsuit?

6           A.     Yes, I think so.

7           Q.     All right. In paragraph 'b' of the EEO complaint  
8     you allege that after you picked up lunch Edwards said to  
9     you, "Don't touch my food, DaSilva, do not touch my drink  
10    DaSilva, thanks for the Hepatitis C, DaSilva." Do you see  
11    that?

12          A.     Sure do.

13          Q.     Why do you believe Edwards made those comments to  
14    you?

15          A.     Chief Edwards was what's that word, he -- what's the  
16    phrase, he had a -- not ADD but he was like a perfectionist.  
17    He didn't want nobody touching anything or doing anything.  
18    His office was like strict, like everything was straight.  
19    What's that called? I don't know what that word is, I'm  
20    sorry, but he had this thing where he didn't want people to  
21    do anything, and --

22          Q.     Are you referring to some kind of disorder?

23          A.     Yeah.

24          Q.     Like obsessive compulsive or something?

25          A.     Yeah, yeah, that's what he had, and he was like

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1 DaSilva got me written up. No, you got yourself written up  
2 for what you said about my wife. So, I --

3 Q. I thought you said you dropped that?

4 A. No, no. I still filed the complaint. I dropped the  
5 EEO after I filed it, correct. I filed the complaint with  
6 the director. The director supposedly wrote him up. And  
7 then I went and filed an EEO, and I said you know what, I'm  
8 going to withdraw that because I want to show the department  
9 that I'm not you know, a bad person, that I got to live here.  
10 That's why he never liked me and that's why he made these  
11 statements that he did. Like he said, don't talk to me, so,  
12 I just -- I just got to work with you, you don't -- don't  
13 talk to me, I don't like you.

14 Q. When did he begin ostracizing and ignoring you?

15 A. Right after I filed the complaint about the  
16 statement he made about my wife.

17 Q. Did he ever ostracize and ignore you before that?

18 A. I never really talked to him that much other than  
19 roll call or something, or kitchen.

20 Q. In paragraph 'c', you allege that on January 25th,  
21 2017, Potter denied you a training course. What was the  
22 training course that he denied you? Is that --

23 A. Fire Officer One.

24 Q. -- Fire Officer One?

25 A. Yep.

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1 Q. Okay. Take a look at exhibit one, please, and look  
2 at exhibit 14. Does paragraph 'c' of your 2017 EEO complaint  
3 refer to the same incident as paragraph 14 of the complaint?

4 A. I would say yes.

5 Q. Why do you believe Potter denied you the training?

6 A. 'Cause I'm not one of his boys. I'm not one of the  
7 guys that you know, always -- that he liked.

8 Q. And why didn't he like you?

9 A. I don't know.

10 Q. Okay. Do you -- who decides whether a training is  
11 approved or not?

12 A. I mean, I think there was one point we had a  
13 training chief, but that didn't last long. The chiefs do.  
14 They all get together or something. They talk from what I'm  
15 aware of.

16 Q. Was Potter a chief at the time?

17 A. He was assistant chief, yeah. He had say in it too,  
18 so.

19 Q. How do you know he had a say in it?

20 A. Because he's the assistant chief. That's who you go  
21 to get training. All these -- you have to go through your  
22 chain of command and get it, so.

23 Q. Do you know who made the decision on that training,  
24 whether to approve it or deny it?

25 A. I don't remember.

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1 Q. In paragraph 'd' of the 2017 EEO complaint you  
2 allege that on January 6th, 2017, Edwards said to you in  
3 front of your peers, "DaSilva, I don't like you, I just have  
4 to work with you". Take a look at exhibit one again, which  
5 is your lawsuit.

6 A. Uh-huh.

7 Q. Does paragraph 'd' of your 2017 EEO complaint refer  
8 to the same incident as paragraph 13 of your complaint?

9 A. You said 'd', okay. Yeah, about the same, yep.

10 Q. Who are your peers who observed this?

11 A. Who are my peers?

12 Q. Yeah, so, I'm sorry, let me rephrase that question.  
13 Who are your peers who observed the statements that -- the  
14 statement that Edwards made, "DaSilva, I don't like you, I  
15 just have to work with you"?

16 A. I don't remember who was there. There was people  
17 there that witnessed it and made statements about it. I  
18 don't remember who they all were, sir.

19 Q. In paragraph 'e' of the 2017 EEO complaint you  
20 allege that Potter would say to you from time to time during  
21 lunch or dinner, "Put on a bra, you ought to wear a 38B".  
22 Have we already discussed all the times that Potter made  
23 those comments to you involving a bra?

24 A. Did you say have we already --

25 Q. Have we discussed that before, all the times that

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1 Potter made those statements to you?

2 A. Have we discussed it? Yeah. I think we went from  
3 2018 to when this got filed, yes, then it stopped, correct.  
4 So, yes.

5 Q. On any occasion when Potter made that statement to  
6 you, did you -- were you joking -- strike that.

7 Have you ever poked fun or jokingly made fun of Potter's  
8 stomach?

9 A. I don't recall, don't remember. I don't remember.

10 Q. Is it possible that you did?

11 A. I don't remember. I don't know. If you have a  
12 timeframe or if you have something that you could show me to  
13 refresh my memory, I could --

14 Q. I'm asking ever. Is it ever -- is it ever possible  
15 --

16 A. I don't --

17 Q. Is it possible that you ever playfully poked fun at  
18 Potter's stomach?

19 A. I don't remember, sir.

20 Q. Is it possible that immediately before he made a  
21 comment to you about a bra that you had jokingly made fun of  
22 him or poked fun at his stomach?

23 A. I don't recall ever. Like I said, if there's  
24 something that you can show me to recollect my memory, I  
25 don't remember anything.

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1 Q. Did you ever make fun of or poke fun at his stomach  
2 during a weight loss competition or a biggest loser  
3 challenge?

4 A. I might have. I don't remember to be honest with  
5 you. Now you're kind of telling me something, yeah, the  
6 weight loss thing, I might have.

7 Q. And is that what triggered Potter to then say well,  
8 you ought to wear a bra?

9 A. I don't know sir if that's what triggered it. That  
10 I don't know.

11 MR. ALTMAN: One second.

12 (Brief pause in proceeding.)

13 BY MR. ANCHILL:

14 Q. All right, on exhibit three, please flip to page  
15 DEF-730 and 731. It's in the lower righthand corner. You  
16 and the Army entered into a settlement agreement to settle  
17 your 2017 EEO complaint, right?

18 A. Yes.

19 Q. Is that your signature on that agreement?

20 A. Yes, sir.

21 Q. You signed on March 16, 2017?

22 A. Yes, sir.

23 Q. Under paragraph A of the agreement it says that the  
24 Army agreed to conduct an inquiry into Edward's alleged rude  
25 and discourteous behavior towards you. Do you know one way

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1 report of your SHARP complaint?

2 A. I don't remember, sir. This could be it. I don't  
3 remember exactly, 'cause she took notes, and I don't remember  
4 the whole thing, how it went.

5 Q. Okay. Well, does this report reflect the substance  
6 of your complaint?

7 A. I -- from what I'm looking at, yes. I don't know  
8 why it's commander critical information requirements. I  
9 don't remember if that's what was part of SHARP, sir. This  
10 could be it. So.

11 Q. So, the question is, does -- does the -- does the  
12 substance of this complaint -- does the substance of what's  
13 in this document reflect your complaint?

14 A. Yes.

15 Q. So, you filed the SHARP complaint because on April  
16 3rd, 2018, Potter asked you how much do breast implants cost,  
17 correct?

18 A. Yes.

19 Q. Okay. And is that what Potter said? Let me ask it  
20 like this, what did Potter say?

21 MR. ALTMAN: Asked and answered, objection, sorry.

22 MR. ANCHILL: It might have been.

23 MR. ALTMAN: That's -- I mean, answer.

24 THE WITNESS: It was four years ago, I, you know, I  
25 don't exactly, it was something to that. If I can read it

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1 Q. When Potter made the statement, did it seem like he  
2 was joking? And I understand you didn't consider it a joke,  
3 but did it seem like he was trying to joke?

4 A. I never thought of that. I didn't pay attention to  
5 that, 'cause when he said it to me in front of everybody,  
6 people laughing and everything, it just -- I didn't take it  
7 as anything. I just took it as like holy cow, and I walked  
8 out. So, I -- no. I didn't know how to respond to that. It  
9 didn't seem it was anything.

10 Q. Okay. So you don't know one way or another whether  
11 he --

12 A. No.

13 Q. -- was joking?

14 A. Nope.

15 Q. Okay. Was he laughing when he said it?

16 A. I don't remember.

17 Q. Okay.

18 A. How can you be laughing and making a statement? You  
19 can laugh after the statement. So, I don't know if you can  
20 complete a sentence and laugh. I think you can laugh after  
21 you make the statement. So, no, he wasn't laughing 'cause  
22 how do you laugh while you're trying to make a sentence.

23 Q. Okay, did he --

24 A. You can laugh after, you know what I mean?

25 Q. Did he laugh after?

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1 says that -- I'm referring to exhibit four, says, "Potter was  
2 told to refrain from these comments, and according to  
3 firefighter DaSilva, he has, but he also doesn't work with  
4 him very -- that frequently."

5 A. This is in this report, sir?

6 Q. Yeah.

7 MR. KONCIUS: Right about where your hand is if that  
8 helps you. It's in that entitled BLUF, do you see that?  
9 Right up -- right up above there, the longer paragraph.

10 THE WITNESS: Okay.

11 MR. KONCIUS: Do you see that?

12 THE WITNESS: Okay.

13 MR. KONCIUS: That's where he was reading from just  
14 to have you not have to look all over that document.

15 THE WITNESS: So ask your question again, sir.

16 BY MR. ANCHILL:

17 Q. Sure. So, the document says, "Potter was told to  
18 refrain from these comments, and according to firefighter  
19 DaSilva, he has, but he also doesn't work with him that  
20 frequently."

21 A. Correct.

22 Q. The question is just is that an accurate statement?

23 A. After the E -- yes. That's after that. He had to  
24 because they were doing an investigation. Actually, they  
25 moved him out of shift. They moved shifts. They put him in

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1 different shifts where I really had no contact whatsoever.  
2 We were supposed to stay away from each other. We didn't eat  
3 in the kitchen, and -- and that's what threw the guys off,  
4 because when I was sitting in the kitchen, 'cause the guys  
5 are there, and the guys were like why isn't Chief Potter  
6 eating in the kitchen? He eats with us in the kitchen all  
7 the time. Then they all kind of looked at me, and I'm like  
8 uh. They kind of have an idea why. So, yeah. So, yeah, it  
9 stopped because it had no choice because the investigation  
10 made him stop and keep him away from me. So, yes.

11 Q. Okay, but prior to the investigation, had he -- was  
12 there a period of time -- prior to you filing your SHARP  
13 complaint, was there a period of time in which Potter stopped  
14 making those kinds of statements to you? 'Cause I think  
15 that's what this statement is saying. But let me just ask  
16 you. Was there a period of time before you filed your SHARP  
17 complaint when Potter stopped making statements to you that  
18 you consider to be of a sexual nature?

19 A. No, I mean it continued from like I said from 2008  
20 until I filed this huge complaint. When I filed the SHARP  
21 and the EEO, that's when things really stopped but before  
22 that, all the way to 2008 it just periodically happened.

23 Remember, I had to pick different shifts. I took leave  
24 not to be around him. So, I did everything I could to be  
25 away from him, so he didn't have to say it anymore 'cause I

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1 was nowhere around for him to say it. When I saw him in roll  
2 call every morning I'd just go leave and do what I had to do.  
3 So, but after this it did stop. Yes, it did.

4 Q. And after your SHARP complaint, did it -- did it  
5 stop forever? Was there ever any --

6 A. No, it stopped forever. It was done.

7 Q. Okay.

8 A. It was done. Yes, sir.

9 Q. Was the basis -- I think you already testified to  
10 this, but was the basis for your SHARP complaint the one  
11 comment that's in there about the breast implants?

12 A. It's not -- yeah. What do you mean basis? Like it  
13 was everything.

14 Q. That was why you filed the complaint was because of  
15 the breast implant comment.

16 A. Well, it was because of all of them, but this just  
17 added to the list. It's to the point to where it's like I  
18 can't take it anymore. This has got to stop. So, it was  
19 everything combined but that one, it was just finally too  
20 much for me, and that's when I decided to go to SHARP and  
21 EEO.

22 Q. Were you interviewed as part of the investigation?

23 A. Yes.

24 Q. Okay. Do you know whether others were interviewed?

25 A. Yes.

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1 share that information with you?

2 A. Oh no. Mr. Young was the way he was because he was  
3 mad because I filed the EEO. You could hear it in his voice.  
4 You could see it in his voice. You know, he was like you had  
5 other options, and the way he said it, he was like intense.  
6 I was like yeah, but you know. It was just horrible, so.

7 Q. Did --

8 A. He discriminated against me. I think that's why he  
9 didn't do what he was supposed to do punishment wise unless  
10 he wasn't the one making the decision.

11 Q. When you refer to the way that Young's voice was  
12 toward you, and you know, him being -- you believe that he  
13 was mad at you for filing the complaint, is it -- are you  
14 referring to what was expressed in the conversation that you  
15 recorded with him?

16 A. Yes, that too, and what he told me, yes.

17 Q. Okay, but what you're referring to is all recorded  
18 on -- on the -- on your -- on the recording, right?

19 A. Yes.

20 Q. There's nothing else that he said to you that --

21 A. He said plenty of things. You'd have to remember  
22 it. Something like I'm not a team player.

23 Q. This is on the recording in that same conversation?

24 A. On the recording, yes.

25 Q. Okay. Who conducted the 15-6 investigation?

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1           A.    A gentleman from another organization. I think his  
2    name was Bob Porter.

3           Q.    Okay. Do you allege that he discriminated or  
4    retaliated against you?

5           A.    No. I think he did a fair job.

6           Q.    Are you aware that the 15 and 6 -- the 15-6  
7    investigator found that everyone harassed everyone?

8           A.    No, I'm not aware of that.

9           Q.    Okay. Do you have a reaction to that?

10          A.    That doesn't mean anything to me. I'm worried about  
11   my case. I didn't care what anybody did with everybody else.  
12   That's not part of my case. So, I didn't -- I didn't have  
13   anything -- not everybody sexually harassed everybody because  
14   there'd be more complaints.

15          Q.    Do you agree that everyone made comments to each  
16   other you know, similar to the comments that Potter made to  
17   you?

18          A.    No, I've never heard it from anybody else ever in  
19   the 20 something years I've been there.

20          Q.    I'm not saying those exact comments but comments  
21   like that.

22          A.    Well, you asked me if the comments like that, no,  
23   I've never heard anything like that towards anybody. I've  
24   never heard of it, sir.

25          Q.    Have you heard of similar comments?

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1 A. I'd wanted to -- I'd like to have known that, yes.

2 Q. Okay. Why were you so intent on learning that  
3 information?

4 A. To make sure that it was done right because  
5 management hasn't done anything right for a long time, and I  
6 just wanted to see if they were going to do the right thing.  
7 That's it. I just wanted to know.

8 Q. Well, they did the right thing here, because the  
9 harassment stopped after this, didn't it?

10 A. Well, it had to stop because he had no choice. So,  
11 they didn't do the right thing.

12 Q. So the investigation worked?

13 A. To a degree, but no, they didn't -- that's not that  
14 it means that it's right. They didn't do the right thing.  
15 You know, it had to stop or else --

16 Q. Why did you file the sexual harassment complaint?

17 A. Because I got tired of being treated that way all  
18 the way through my career, 2008. It was just to the point to  
19 where I can't take it anymore.

20 Q. What was your goal in filing it?

21 A. My goal? There is no goal. It's to leave me alone,  
22 let me do my job, do the right thing. That was it.

23 Q. And that happened, right? 'Cause the harassment  
24 stopped?

25 A. No, it didn't happen. The harassment stopped, but  
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1 it doesn't mean that what they didn't do. They didn't do the  
2 right thing. They didn't -- they didn't completely do the  
3 right thing. Yeah, the harassment stopped 100 percent, yeah.

4 Q. And the reason why they didn't completely do the  
5 right thing is because Potter didn't get harsher discipline?

6 A. Didn't get what?

7 Q. Harsher discipline, correct?

8 MR. ALTMAN: Objection, argumentative.

9 THE WITNESS: What's that word, partial? I didn't  
10 hear what you said.

11 BY MR. ANCHILL:

12 Q. Harsher. Harsher discipline.

13 A. Harsher.

14 Q. That's the reason why they didn't do the right thing  
15 is because Potter did not get harsher discipline.

16 MR. ALTMAN: Objection, argumentative.

17 THE WITNESS: Do I have to answer that, Keith?

18 MR. ALTMAN: You do.

19 THE WITNESS: I don't want to say harsher. I just  
20 want to say the Army failed to follow their guidelines on the  
21 table of penalties for what was done.

22 BY MR. ANCHILL:

23 Q. Okay.

24 A. I had a picture of it in the SHARP thing.

25 Q. That's what I mean by not giving him a harsher  
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1 Q. Okay. After the investigation concluded, did the  
2 work atmosphere change?

3 A. Yes. We -- we were all mandatoried to go to SHARP  
4 again, the sexual harassment again, which for me was  
5 devastating. It was like -- it was a disgrace. It was a  
6 slap in my face, 'cause I've got to sit through this class  
7 now, again, knowing that I've gone through this, and the  
8 proper discipline wasn't even done. So, every time I'm  
9 sitting in that class, it hurts. It hurt because she's like  
10 oh, the Army has a zero tolerance. We have this. We have  
11 that. So, yeah, it changed. You know, people weren't  
12 allowed to watch TV, and they weren't allowed to talk about  
13 politics. I know I'm just throwing that in there because  
14 that was part of it. Yeah, it changed, definitely changed,  
15 so.

16 Q. Did -- after the conclusion of the sexual harassment  
17 investigation, did the Army require everyone to take several  
18 mandatory trainings?

19 A. Yes, sir.

20 MR. ALTMAN: Objection, form.

21 BY MR. ANCHILL:

22 Q. Okay.

23 A. Yes. We were all mandatory to take SHARP complaint  
24 sexual training, and all other training.

25 Q. How many trainings were there that were mandatory?  
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1           A.    Other than the SHARP, I don't remember the other  
2           ones.   Definitely the SHARP was back-to-back.   There was  
3           something else.   I don't remember what it was exactly.

4           Q.    Do you fault the Army for offering the SHARP  
5           training?

6           A.    No.

7           Q.    Okay.

8           A.    It's great.   It should be offered there.

9           Q.    Okay.   By the way, what -- what -- are you aware of  
10          what discipline Potter did receive?

11          A.    I did find out in -- I am aware of it, that's why  
12          it's so devastating to me.   I am aware of it because I want  
13          to say what's her name, Ms. Cassandra Williams was the EEO  
14          investigator that came from -- she was out of state.   She  
15          came in, and she asked Chief Potter what he got, and then she  
16          wrote and send -- she sent me the whole investigation, here  
17          you go.   So, I actually read it in the investigation that --  
18          what he got.

19          Q.    What did you read?   What's your understanding of  
20          what he got?

21          A.    From what I remember reading, like I said, I read it  
22          a long time ago, it was just a little counseling whatever,  
23          write up that goes away in whatever, a year.   It doesn't stay  
24          in your record.

25          Q.    How do you --

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1 the 'N' word?

2 A. 'N' word could be night, nothing. No, I'm asking  
3 clarification of what you are asking me.

4 Q. Okay, spelled, N-I-G-G-E-R.

5 A. Okay. And what's your question?

6 Q. Have you ever used that word at work?

7 A. I don't think so. I don't remember.

8 Q. Okay. Did you ever approach Lesley Tillman and say,  
9 what's up, followed by the 'N' word?

10 A. I don't remember, sir.

11 Q. You don't know either way?

12 A. I don't remember.

13 Q. You might have, you might not have?

14 A. Might have, might not have said it.

15 Q. Okay.

16 A. I don't remember, yes, so.

17 Q. What is Mr. Tillman's race?

18 A. Black.

19 Q. If you did say that, do you believe that's  
20 appropriate?

21 A. If I did say it? I don't know.

22 Q. Okay.

23 A. It depends on if he was offended or what the context  
24 was that day. I don't know if it was.

25 Q. Do you think it's acceptable to refer to an African  
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1 American or anyone by the 'N' word?

2 A. Say that again.

3 Q. Do you think it's acceptable to refer to an African  
4 American or anyone by the 'N' word?

5 A. I don't know. I don't make that decision I mean.

6 Q. Have you ever watched pornography at work?

7 A. Yes.

8 Q. Did you view pornographic pictures, pornographic  
9 videos, or both?

10 A. In my personal bunk room, yes.

11 Q. What do you mean your personal bunk room?

12 A. My private bunk room that I have -- it's my room. I  
13 sleep there 24 hours. It's my -- I'm the only one sleeping  
14 there. Yes, it's my bunk. It was my downtime, my do -- my  
15 downtime. It's my private, it's like my bedroom. It's my  
16 bedroom, basically.

17 Q. Your bunk in the Detroit Arsenal?

18 A. Yeah, it's my personal bedroom.

19 Q. That's where you viewed the porn?

20 A. I didn't -- I've seen it, yes. I've used it. It  
21 wasn't on the government internet. It was internet that we  
22 pay for, so.

23 Q. To your knowledge, has anyone observed you viewing  
24 pornography?

25 A. Not to my knowledge.

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1 Q. Okay. Does watching pornography at work violate any  
2 work -- or workplace rules?

3 A. I think if you're on a government computer, yes.

4 Q. Okay. What about on a personal computer the way  
5 that you were viewing it in your bunk room at the Detroit  
6 Arsenal?

7 A. I don't -- I don't think it violates anything that  
8 I'm aware of.

9 Q. Okay. I'm showing you what we'll mark as exhibit  
10 eight. This is Bates labelled DEF 881.

11 (At 4:19 p.m., deposition exhibit 8 marked.)

12 BY MR. ANCHILL:

13 Q. Can you tell us what this document is?

14 A. Yep, see it.

15 Q. What is that?

16 A. Basically what it says.

17 Q. What is the document?

18 A. What do you mean what is the document?

19 Q. What is it?

20 A. Memorandum for records it says.

21 Q. Okay. Is there anything in that memo that's  
22 inaccurate?

23 A. Nope.

24 Q. Okay. Did you leave a pornographic website up on  
25 your computer screen in your bunkroom and then leave the

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1 bunkroom?

2 A. Yeah, because we responded to a call, yep.

3 Q. Okay. Why'd you do that?

4 A. Didn't do it on purpose.

5 Q. Okay.

6 A. I had to respond to a call.

7 Q. And to your knowledge, Potter saw it?

8 A. Yep, obviously, yep.

9 Q. This occurred in September 2017?

10 A. I don't know if that -- where does it say that? I  
11 don't remember the date. Yeah, that's what it says, yep.

12 Q. Do you believe it's a serious matter to have  
13 pornographic material on your computer screen at work?

14 A. Do I believe it's -- if I was on a government  
15 computer, I'd say yes.

16 Q. Okay. What about the way you were viewing it?

17 A. It was my bedroom, my bunk --

18 Q. So, not --

19 A. -- my privacy, my bedroom, my -- you know. So, it  
20 was my privacy. It was my bedroom.

21 Q. So, not serious?

22 A. It was my privacy in my bedroom, nobody has the  
23 right to go in there. Nobody has the right to do anything,  
24 so.

25 Q. So, not a serious matter, correct?

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UNITED STATES OF AMERICA  
UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JOE DASILVA, JR.,	)	
	)	Civil No. 20-11358
Plaintiff,	)	
	)	
vs.	)	
	)	
CHRISTINE WORMUTH,	)	
Secretary of the Army, and	)	
MARTIN POTTER, in his	)	
individual capacity,	)	
	)	
Defendants.	)	

DEPOSITION OF JOE DASILVA, JR.

DATE: Friday, November 18, 2022

TIME: 9:04 a.m. to 1:50 p.m.

FACILITATED BY: Free State Reporting, Inc.

PURSUANT TO: Notice by counsel for the Defendant for  
purposes of discovery, use at trial, or  
such other purposes as permitted under  
the Federal Rules of Civil Procedure and  
Federal Rules of Evidence

REPORTED BY: AMY SHANKLETON-NOVESS

Pages 1 - 141



1 P R O C E E D I N G S

2 Whereupon,

3 JOE DASILVA, JR.

4 was called as a witness and, having been first duly sworn  
5 by the Notary Reporter, was examined and testified as  
6 follows:

7 COURT REPORTER: Would you please state and spell  
8 your first and last names for the record?

9 THE WITNESS: Joe DaSilva, Jr. J-o-e D-a-S-i-l-  
10 v-a, Jr.

11 COURT REPORTER: Thank you.

12 CROSS-EXAMINATION

13 BY MR. ANCHILL:

14 Q. Good morning, Mr. DaSilva.

15 A. Morning, sir.

16 Q. You testified in our last session a few months  
17 ago that you asked Mr. Young for a reference letter for a  
18 part-time position and Mr. Young retaliated against you  
19 when he refused to provide it. Do you recall that  
20 testimony?

21 A. Hold on. I'm confused. Did I say that in the  
22 last one or did you ask me? I'm confused.

23 Q. Well, let me just ask you. Do you believe that  
24 Mr. Young refused -- retaliated against you when he refused  
25 to write you a reference letter for a part-time position?

1           A.    Yes, that did happen.  Correct.  I did ask him  
2   for that.

3           Q.    What is the part-time position that you asked Mr.  
4   Young to recommend you for?

5           A.    It was a reserve police officer at the time.

6           Q.    So it was a position for a reserve police  
7   officer?

8           A.    Yes.

9           Q.    Was that with the Army or with some other  
10   employer?

11          A.    No, no.  Just an outside agency from the Army.  
12   It was just outside the Army outside the agencies.

13          Q.    What agency was the potential position for?

14          A.    I think it was the Washtenaw County Sheriff's  
15   Department Reserve Program.  Because I live in Washtenaw  
16   County.

17          Q.    So that's not a federal government position?

18          A.    No, no.  Nothing to do with federal government.  
19   No, sir.

20          Q.    Did you ever apply for that position with the  
21   Washtenaw County Sheriff's Department?

22          A.    I didn't finish the application.  No.  It was the  
23   Marine Division and I wasn't able to accomplish -- finish  
24   everything.  Just didn't happen.

25          Q.    Why were you not able to finish the application?

1           A.    You have to swim a long way and I have a bad  
2   rotator cuff and I wasn't able to swim that long. I tried  
3   going to YMCA to swim and I wasn't doing too good so I just  
4   never even finished applying. I got the application, got  
5   everything, starting to filling it out. And he's like, oh,  
6   you know you got to learn -- you got to swim. You got to  
7   test. Because in the Marine Division you have to be able  
8   to swim.

9           So I went to the YMCA and I was swimming, I was  
10   swimming. I was like, oh, I can't do this. My right --  
11   because I have a rotator cuff tear so I was like -- and  
12   then I just never did it. And he never wrote me a letter  
13   anyway so I just never finished it up anyway.

14          Q.    So a physical limitation that you had prevented  
15   you from meeting one of the requirements of that position?

16          A.    Well, they didn't --

17          MR. ALTMAN: Objection to form. Go ahead.

18          A.    They didn't tell me it was -- I chose that to not  
19   go any further because I was swimming but it was getting  
20   hard to do what they required. And I already knew the  
21   requirements in advance because I signed the application.  
22   And I'm like, well, before I go any further. Because I  
23   didn't like -- I didn't even submit my application at the  
24   point -- I grabbed it, looked at everything. I went and  
25   asked Mr. Young for a reference letter and he said no and

1 then I said, well, I'm going to keep trying.

2 And I went swimming and I went to the YMCA and I  
3 was like, I'm not even going to go through with this. It  
4 hurts. So that was it. So they didn't tell me no. I made  
5 the decision to not even apply because when I read the  
6 standards, I was like, oh, this swimming part is the only  
7 part that's going to get me. So I never continued.  
8 Correct.

9 Q. One of the claims you bring in this case is a  
10 sexual harassment claim against Potter. Correct?

11 A. Yes.

12 Q. How do you define the term sexual harassment?

13 MR. ALTMAN: Objection. Form. But you can  
14 answer.

15 A. Been a while since I took the class but I think  
16 it's like touching, inappropriate statements, sexual  
17 statements that aren't wanted. Touching that aren't wanted  
18 or something like that. I don't remember the whole thing.  
19 But you know -- asking for favors or something about -- if  
20 you do this or something or -- that's -- I think that's the  
21 definition I remember. I don't remember the whole thing.

22 Q. Which part of that definition did Potter violate?

23 MR. ALTMAN: Objection. Form.

24 A. About sexual statements he's made to me. That's  
25 the ones he violated that I believe. Do I have to say it

1     disparate treatment. And I felt uncomfortable. It's like,  
2     this is all continuing. So I didn't feel comfortable at  
3     all going towards him.

4             Because at that point, I realized this guy  
5     doesn't like me and I have it here in writing. It proves  
6     that he has some issues with me. So I didn't feel  
7     comfortable at all. So when I filed that EEO complaint  
8     with the disparate treatment, the EEO office -- our  
9     actually -- our EEO office was actually, for some reason,  
10    not working.

11            So I ended up going to TACOM's EEO because that  
12    was the next office. And the lady that took my complaint,  
13    that's when she said, hey, is there anything else other  
14    than the disparate treatment and evaluation that you want  
15    to add to this. And I'm like, yeah. If this is the time  
16    -- she goes, this is the time to add. So that's when I  
17    added, yes, can you tell him to make -- stop making the  
18    statements if I wear a B-size bra. So that's what I did.

19            Q. Did Potter's comments that you take issue with,  
20    the comments about wearing a bra, the comment about how  
21    much breast implants cost, did those comments interfere  
22    with your ability to do your job as a firefighter?

23            A. I mean, I had a job to do. I just had to deal  
24    with it, with the comments. And I had to deal with the  
25    other reactions of people at the station knowing and

1 laughing at me. But I had a job to do. I mean, it wasn't  
2 easy. But I don't think it interfered with my job.

3 But it bothered me. It definitely didn't make me  
4 feel good. So when I was down, you know, down time at the  
5 fire station, yeah, I thought about it. I'm like -- you  
6 know, it was horrible. But I tried to do the best I can  
7 with my job. Try not to let that affect my job because I  
8 have a family to support.

9 Q. Again, I apologize if I asked you this last time.  
10 But do you believe that Potter's comments about you wearing  
11 a bra and about the cost of breast implants, do you believe  
12 that he made those comments because he harbors a bias or  
13 hostility toward the male gender.

14 MR. ALTMAN: Objection. Form.

15 A. So you're asking -- rephrase that again.

16 Q. Sure. The comments that you take issue with that  
17 Potter made, do you believe that he made those comments  
18 because he harbors hostility or bias toward males in  
19 general?

20 A. I can't answer that --

21 MR. ALTMAN: Objection. Form.

22 A. Oh, sorry. I can't answer. I don't know the  
23 answer. I can't tell you why he made those -- are you  
24 asking me why he made them? Is that what the question --

25 Q. I'm asking your belief as to why he made them?

1 like him. I can't explain that -- why. I picked -- did  
2 not pick him because I didn't want to work with him.

3 Q. And the firefighters who pick him because they  
4 like him are male. Correct?

5 A. Well, yeah. We don't have any females on our  
6 station. So yeah.

7 Q. That was going to be my next question.

8 A. Yeah.

9 Q. All the firefighters are male.

10 A. They're all males at our station. So yeah,  
11 there's no females.

12 Q. When Potter made the comments to you that you  
13 take issue with about wearing a bra and about the cost of  
14 breast implants, do you believe that Potter was making fun  
15 of you for not having a body like a man?

16 MR. ALTMAN: Objection. Form.

17 A. I don't know why he did it. To hold up a pencil  
18 and say I could hold it under my breast, he made that  
19 statement in the kitchen in front of another firefighter.  
20 That was like -- it made me feel unmanly. It made me feel  
21 emasculated. It's like, wow, this guy is making me feel  
22 horrible. So I don't know why he said it. I can't answer  
23 that question. I don't -- I'm not in his brain. I don't  
24 know why people -- he did it. So I know I didn't feel good  
25 about it.

1 Q. Do you recall the incident discussed in Exhibit  
2 9?

3 A. Yes, I do.

4 Q. Is there anything -- what is Exhibit 9?

5 A. Well, Exhibit 9 -- it's not completely accurate.  
6 And this was supposed to be removed from record in six  
7 months. So it shouldn't even be here. Chief Ball said it  
8 would be removed. My supervisor at the time was Chief  
9 Tillman. And Chief Tillman spoke to me that day. And he  
10 told me that he went and saw Jill -- now that I'm reading  
11 this. I never did touch her. And she told him that I  
12 never touched her.

13 And then, when Tillman came back -- because I  
14 refused to sign. I go, I didn't touch her. I never  
15 touched her. And he said, I understand that you didn't  
16 touch her; she told me you didn't touch her either but we  
17 just want to document it so she can feel comfortable in  
18 whatever happened.

19 So I ended up signing it anyway because Chief  
20 Ball said it was going to be removed from the record in six  
21 months. So I don't know why it's even here. But no, I  
22 never touched this woman. And Chief Tillman will testify  
23 to that, too. Because he went specifically and talked to  
24 her directly because he was my supervisor at the time. So  
25 I never did touch her. So that's why I refused to sign.



1 But like I said, I signed it and it doesn't mean -- just  
2 because you sign a document, it doesn't mean you did it.  
3 It just says you accept what they wrote. But I never  
4 touched her and Chief Tillman will testify to that.

5 Q. How does Chief -- how would Chief Tillman know  
6 whether or not you touched her?

7 A. Because she told him. And he told him when I was  
8 doing this -- I go, Chief, I'm not going to sign this. He  
9 goes, I know you didn't touch her. She told me you didn't  
10 touch her. But we're just doing this -- he said we're  
11 doing this -- and Chief Ball said we're doing this to  
12 protect the department. I said, okay, I'll sign it. And  
13 he says, it goes away in six months. So it's not even --

14 Q. So your --

15 A. -- supposed to be here.

16 Q. So your testimony is that Ms. Bramer told Tillman  
17 that you did not --

18 A. I did not touch her.

19 Q. -- touch her. Is that correct?

20 A. That's correct. Because I talked to him  
21 specifically about it. Because he went over there and  
22 talked to her. So I never touched her.

23 Q. Did you observe Ms. Bramer tell Tillman that you  
24 did not touch her?

25 A. No, I wasn't there. He went and talked to her by

1 know exactly what it said because I didn't get to read it.  
2 But I know there's one there. So I'd like to get a copy of  
3 it.

4 Q. Has Potter ever touched you in a way that you  
5 found to be offensive?

6 A. No.

7 Q. I asked you during our last session a few months  
8 ago if you've ever gone by any other names. I want to  
9 clarify what I mean by that. Have you ever had another  
10 name, either another first name or another last name?

11 A. I did say that. Jose. My birth name is Jose.  
12 J-o-s-e. Jose Antonio Domiciano DaSilva. That was my  
13 birth name.

14 MR. ALTMAN: Only two middle names?

15 THE WITNESS: Yeah. Tell me about it. What  
16 happens when you're born in another country. You're born  
17 in Brazil, they add like eight middle names. It's  
18 horrible. It literally didn't fit on my driver's license  
19 and that's why I legally changed it when I became a U.S.  
20 citizen. They're like, you can change your name. I said I  
21 just want to shorten it because this is ridiculous.

22 BY MR. ANCHILL:

23 Q. In what year did you change your name if you  
24 recall?

25 A. I don't remember. I don't remember. 90

1 on driving. So I don't know.

2 Q. When you say that you might have, what might you  
3 have said?

4 A. I don't recall. I don't have a clue what I said.

5 Q. Have you ever made fun of anyone's weight at  
6 work?

7 A. I think when we were having a weight loss thing,  
8 we all made fun of each other. We all said ourselves we  
9 were a little overweight but I don't think I made fun of  
10 anybody. I don't recall making fun of anybody.

11 Q. Okay, so --

12 A. When we had our weight loss thing, we all -- we  
13 were like, oh, we're all overweight. So I don't think I  
14 remember or recall saying anything specifically about  
15 somebody else. I might have questioned somebody that said,  
16 oh, you're not that heavy or you're not that light. I  
17 didn't make fun of anybody. But I might have questioned  
18 somebody. Because I'd say they'd weighed so much. They --  
19 no, I actually weigh more. I'm like, well, you don't look  
20 it. Or I've said the same thing. But I've never recall  
21 making fun of anybody.

22 Q. Have you ever used the term fat fuck at work?

23 A. Might have once or twice. I don't recall when.  
24 But I might have said it. Yes.

25 Q. To whom did you direct that term?

1           A.    I have no idea if I've said that to anybody or  
2   just said it out of anything.

3           Q.    Who is Brian Ferman?

4           A.    One of the firefighters.

5           Q.    Did you ever call him a fat fuck?

6           A.    I don't remember.

7           Q.    Is it possible that you did?

8           A.    I don't think so.  I don't -- I know Brian so  
9   probably not.

10          Q.    Have you ever made fun of Mr. Ferman's weight?

11          A.    I don't recall if I did.

12          Q.    Who is Scott Magowan?

13          A.    One of the firefighters.

14          Q.    Have you ever made fun of his weight?

15          A.    No.  We've talked about our weights.  We never  
16   made fun of it.  Him and I talked a lot.  He stood up in my  
17   wedding.  So yeah, I've never -- don't think I made fun of  
18   Scott.  We might have talked a lot about our weights.  
19   But --

20          Q.    Tell us what you talked about with Mr. Magowan  
21   with regard to weight.

22          A.    It was when we were doing a weight loss thing.  
23   We were talking about how much we need to lose.  Like I  
24   said I need to lose this.  And he's like -- I go, you don't  
25   look like you need to lose that much.  And he's like, oh,

1 A. I mean, I don't think so.

2 Q. Is it possible that you have?

3 A. No.

4 MR. ALTMAN: Objection. Form.

5 Q. So your testimony today is you have never talked  
6 to your coworkers at work about your sexual relationship  
7 with your wife. Correct?

8 A. I don't recall anything like that. I don't  
9 remember saying anything to anybody.

10 Q. Did you ever brag to your coworkers or to one of  
11 your coworkers that you bent your wife over a couch after  
12 coming home from an event?

13 A. No.

14 Q. Did you ever say anything to a coworker about  
15 bending your wife over a couch?

16 A. No.

17 Q. Have you ever exposed your penis to a coworker?

18 A. No.

19 Q. Have you ever told a coworker that you're well  
20 endowed?

21 A. No.

22 Q. Have you ever told a coworker that you "have a  
23 big dick"?

24 A. No.

25 Q. So your testimony today is that you never exposed

1 your penis to Mr. Fern?

2 MR. ALTMAN: Objection. Asked and answered.

3 A. Nope.

4 Q. If Mr. Fern were to say -- well, first of all,  
5 who is Mr. Fern?

6 A. One of the firefighters. Well, I think he's an  
7 inspector now. But one of the firefighters.

8 Q. If he were to say that -- if he were to testify  
9 in this case that you did expose your penis to him, do you  
10 have any reason that you can think of why he would lie?

11 MR. ALTMAN: Objection. Form and foundation.

12 A. Nope.

13 Q. Have you ever compared your wife's looks to the  
14 looks of other women such as women on TV or the wives of  
15 other firefighters?

16 A. Have I ever compared looks? Like give me an  
17 example of what you're asking.

18 Q. Like suggesting that your wife is better looking  
19 than another firefighter's wife, for example.

20 A. No, I've never done that. I've always said my  
21 wife is beautiful. That I have said.

22 Q. Have you ever compared her looks to the looks of  
23 any other women?

24 A. Like --

25 Q. While at work?

1 specifically.

2 Q. To your understanding, is she of an Asian  
3 nationality?

4 A. Something like that. I don't know it completely.

5 Q. What would Shane Beal say about his wife in the  
6 kitchen?

7 A. Bad things. Just a lot of bad things. He'd call  
8 her stupid. Didn't know what she was doing. It was just  
9 pretty horrifying. We were all like, wow. So we stay out  
10 of that -- I stayed out of it. And we were like, that's  
11 his business.

12 Q. Do you recall any other statements that Mr. Beal  
13 made about his wife?

14 A. There's a lot. I just don't recall them all.  
15 But they weren't good. I know that.

16 Q. Can you be more specific?

17 A. I -- like I said, he'd call her dumb or stupid or  
18 she didn't know what she was doing and -- like I say, I  
19 don't recall the whole entire thing.

20 Q. Did you ever ask Shane Beal if it's true that  
21 Asians have a slanted vagina?

22 A. I don't recall ever asking that. I don't recall.

23 Q. If he says you asked him that question, would you  
24 have any reason to dispute that?

25 MR. ALTMAN: Objection. Form and foundation.

1 Correct?

2 MR. ALTMAN: Objection. Form and foundation.

3 A. I don't know why somebody would -- I don't  
4 discuss that at work.

5 Q. I asked you earlier if you've ever exposed your  
6 penis at work. And I just want to make sure your testimony  
7 today is very clear. It's your testimony that you have  
8 never shown a coworker your penis.

9 A. Nope.

10 Q. Correct?

11 A. Correct.

12 Q. Including inside a bunk room?

13 A. Yeah.

14 Q. So you've never shown Mr. Fern your penis inside  
15 his bunk room?

16 A. Nope.

17 MR. ANCHILL: I'm going to show you what we'll  
18 mark as Exhibit 10. This is your initial disclosures in  
19 this case which is a document that you produced to the  
20 government, to the Army in this case.

21 (Whereupon, the document  
22 referred to as Exhibit  
23 Number 10 was identified  
24 for the record.)

25 MR. KONCIUS: And while you're handing that out,



1           Number two is Potter. We know what information  
2 he has. Number three, Christine Wormuth. What information  
3 does she have about your lawsuit?

4           A. Well, it's the secretary of the Army. Whatever  
5 we forwarded her. I don't -- that's beyond my level. I  
6 don't -- how do I answer that because I don't -- it says  
7 chief secretary of the Army. So whatever was submitted to  
8 her. I don't know, sir. I can't answer that because  
9 that's way above my head.

10          Q. Do you know whether she has any personal  
11 information about your case or your lawsuit?

12          A. Oh, that's what your -- no, I don't know.

13               MR. ALTMAN: Objection. Form and foundation.  
14 Somebody is beeping.

15          Q. Shawn Edwards. Who is he?

16          A. Fire chief. Well, at the time.

17          Q. From what period of time roughly if you know?

18          A. I don't know.

19          Q. What information does he have that's --

20          A. The time -- there.

21          Q. I'm sorry?

22          A. From the time this -- the incidents have -- for a  
23 period of time that he was there. I don't know exactly  
24 what it was.

25          Q. What information does he have that's relevant to

1 EEO complaint, and he's the deciding official on what  
2 punishment is given. So he has all the information  
3 actually.

4 Q. Number eight is Robert G. Porter. Who is he?

5 A. He's in charge of human resources. He's the  
6 gentleman that did -- Robert G. Porter is the gentleman  
7 that did the 15-6 investigation of the allegations of  
8 sexual harassment. He did the investigation, the 15-6.  
9 That's who was assigned to do the investigation so has  
10 everything. He -- supposedly he made all the decisions.  
11 He did the recommendation for the -- penalties, for  
12 punishment. He did all that. And then he submitted that  
13 to Mr. Moscone.

14 Q. Do you know what he recommended in the way of  
15 punishment?

16 A. I am not -- I'm not allowed to see that so I  
17 would not know.

18 Q. Let's get down to number 12. Matt Hoiltyn. Who  
19 is he?

20 A. One of the firefighters.

21 Q. And what information does he have that's relevant  
22 to the lawsuit?

23 MR. ALTMAN: Objection. Form and foundation.

24 A. I mean, they were -- 12, 13 -- I'm looking at all  
25 the names here. These were all people that have witnesses

1 A. Yes. Correct.

2 Q. And the different options for the ratings are

3 excellence, success, needs improvement, and fails.

4 Correct?

5 A. Yes, sir.

6 Q. What is the highest of those rankings?

7 A. In each category?

8 Q. Just of those four rankings, the highest one that

9 you can get is excellence. Right?

10 A. Correct, yes.

11 Q. That means that you're exceeding standards?

12 A. Yes.

13 Q. And success means that you are meeting standards?

14 A. Yes.

15 Q. Turning now to Exhibit 11, who completed this

16 particular evaluation of you?

17 A. Exhibit 11.

18 MR. KONCIUS: It's in your hand. That's the one.

19 A. Say that again.

20 Q. Who completed this evaluation for you?

21 A. Looks like it's Chief Potter.

22 Q. And this evaluation is evaluating your

23 performance for the calendar year 2017?

24 A. Yes.

25 Q. Is this the evaluation that you alleged is

1 discriminatory?

2 A. I'm not 100 percent. I think it is. Because I  
3 don't have everything in front of me. And it's been so  
4 long. I think it is because -- yeah, I think this is the  
5 one. Because on the technical competence is where I was --  
6 thought I should have got excellent instead of successful.

7 Q. That was going to be my next question for you is  
8 the aspect of this evaluation that you take issue with as  
9 discriminatory is number one under responsibilities,  
10 technical competence.

11 A. Yep. Technical knowledge, skills, abilities, do  
12 work right, time and sound judgement. Yep.

13 Q. And you believe that this is discriminatory  
14 because you should have received an excellence in that  
15 category --

16 A. Yes.

17 Q. -- instead of a success?

18 A. Yes.

19 Q. In this evaluation, Potter gave you one success  
20 rating and three excellence ratings.

21 A. Yes.

22 Q. And then, at the bottom of the second page,  
23 there's a box that says overall performance. And there is  
24 a scale of one, two, three, four, five.

25 A. Yes.

1 Q. Thank you. And I believe that when we're looking  
2 at Exhibit 11, that was a 2017 and the Exhibit 12 was 2016.  
3 Correct?

4 A. Yes.

5 Q. Those were the -- those were from the time frame  
6 -- was it Chief Potter at that time or Assistant Chief  
7 Potter at that time?

8 A. Assistant chief.

9 Q. Assistant chief. And that is when he was your  
10 immediate supervisor. Correct?

11 A. Yes.

12 Q. When did that change? When did he no longer  
13 immediately supervise you?

14 A. I think it was the following -- I don't know when  
15 it changed but I think it changed when they picked shifts.  
16 And then, you know, I don't know how it changed. I just  
17 know it changed. I don't know the specifics of it. I just  
18 know that one year, next thing you know, it was -- I think  
19 it was Tillman and then it was -- or before that was Ball.  
20 Yeah, it just changed. The next one was just Chief  
21 Tillman. I don't know exactly.

22 Q. And that -- I'm sorry. Okay.

23 A. Sorry.

24 Q. No worries. And that's -- that was who performed  
25 your --

1 Q. You testified that in response to Mr. Koncius'  
2 questions that some people participated in the weight loss  
3 competitions and some people didn't. Correct?

4 A. Yes.

5 Q. You and Potter both did. Correct?

6 A. I think so. It's been so long. I think we did.

7 Q. You testified in response to Mr. Koncius'  
8 questions that there may have been another captain position  
9 that you did not receive because of discrimination or  
10 retaliation?

11 MR. ALTMAN: Objection. Misstates his previous  
12 testimony.

13 Q. Well, let me ask you, do you remember during our  
14 deposition a couple -- during the deposition a couple  
15 months ago, we had talked about a captain's position that  
16 you did not receive that you applied to in 2019, that you  
17 allege that Mr. Potter interfered with? Do you remember  
18 that?

19 A. Yes, he sat on that board. That was a person to  
20 person. Right. That I do remember.

21 Q. And I had asked you, are there any other  
22 transfers or promotions that you believe that you were  
23 denied because of discrimination and you said no.

24 A. Correct.

25 Q. Is that testimony true?